

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-CV-00163-FDW-DCK**

**DIANNE M. PETERS
LEGACY DATA ACCESS, INC.,**

Plaintiffs,

v.

**JAMES YUHAS
LEGACY DATA ACCESS, LLC
CADRILLION, LLC,**

Defendants.

CONSENT ORDER

In January 2019, following remand from the United States Court of Appeals for the Fourth Circuit, *see Legacy Data Access, Inc. v. Cadrillion, LLC*, 889 F.3d 158 (4th Cir. 2018), a jury trial on damages was held for Plaintiffs' breach of contract claim against Defendant Cadrillion, LLC ("Cadrillion"). The jury returned its verdict on January 24, 2019. (Dkt. 178.) The Judgment in Case against Cadrillion was entered on January 25, 2019. (Dkt. 179.) The parties then filed various post-trial motions.

On August 8, 2019, this Court entered the Order and Judgment (the "**2019 Judgment**") awarding Plaintiffs against Cadrillion compensatory damages in the amount of \$1,414,658, attorneys' fees in the amount of \$1,073,597, prejudgment interest in the amount of \$444,939.01, nontaxable expenses in the amount of \$59,482.40, and taxable costs and fees in the amount of \$10,306.27, in addition to post-judgment interest at a rate of 2.58%, to be compounded annually from January 25, 2019 until the judgment is satisfied. (Dkt. 214.)

Cadrillion, along with Defendants James Yuhas ("**Yuhas**") and Legacy Data Access, LLC, timely appealed the 2019 Judgment to the Fourth Circuit. As security for the 2019 Judgment

pending appeal and in lieu of a supersedeas bond, Plaintiffs agreed to accept an Amendment to Irrevocable Standby Letter of Credit dated September 18, 2019 by TowneBank, Successor by Merger to Paragon Bank, in the amount of \$3,355,816.69 (the “**2019 Letter of Credit**”). A copy of the 2019 Letter of Credit is attached hereto as Exhibit A. The 2019 Letter of Credit amends the Irrevocable Standby Letter of Credit from Paragon Commercial Bank, Paragon Commercial Bank Irrevocable Letter No. *SLC-433* dated *January 5, 2018* in favor of Plaintiffs and on behalf of Cadrillion and Yuhas (the “**2018 Letter of Credit**”). A copy of the 2018 Letter of Credit is attached hereto as Exhibit B.

On October 22, 2019, the Court issued an order staying execution on the 2019 Judgment and proceedings to enforce it during the pendency of the appeal on the terms stated in the order (“**2019 Stay Order**”). (Dkt. 226.) The 2019 Stay Order also released the obligations of Yuhas and Paragon Commercial Bank, as those obligations relate to Yuhas, under the 2018 Letter of Credit.

On January 5, 2021, the Fourth Circuit issued a decision affirming the 2019 Judgment. On January 27, 2021, the Fourth Circuit issued the mandate pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

Plaintiffs have agreed to accept \$3,418,724.63 (the “**Judgment Amount**”) in satisfaction of the 2019 Judgment and of any right that Plaintiffs might otherwise possess to recover additional attorneys’ fees, costs, and interest.

Plaintiffs and Cadrillion have agreed that the Judgment Amount shall be paid as follows: (1) On or before February 12, 2021, Cadrillion will pay \$62,907.94 to the Trust Account of James, McElroy and Diehl, P.A., counsel for Plaintiffs, which amount may be disbursed to Plaintiffs upon receipt; and (2) Plaintiffs may collect the balance of the Judgment Amount, which is \$3,355,816.69, by drawing on the 2019 Letter of Credit as authorized by this Consent Order.

Upon payment by TowneBank to Plaintiff Legacy Data Access, Inc. or Plaintiff Dianne M. Peters of \$3,355,816.69, the obligations of TowneBank under the 2018 Letter of Credit, as amended by the 2019 Letter of Credit, shall be released, by agreement of Plaintiffs.

Plaintiffs represent that they have not docketed or transcribed in any state or federal jurisdiction the 2019 Judgment or any other judgment entered at any time in this action.

Now, therefore, it is hereby Ordered that:

1. On or before February 12, 2021, Cadrillion shall pay \$62,907.94 to the Trust Account of James, McElroy and Diehl, P.A., counsel for Plaintiffs, which amount may be disbursed to Plaintiffs upon receipt.

2. Legacy Data Access, Inc. and Dianne M. Peters are hereby granted the right of execution against the Original Paragon Commercial Bank Irrevocable Letter No. SLC-433 dated January 5, 2018, together with the Amendment to Irrevocable Standby Letter of Credit dated September 18, 2019 by TowneBank, Successor by Merger to Paragon Bank, in the amount of \$3,355,816.69. Upon payment of this amount, all obligations of TowneBank under the Original Paragon Commercial Bank Irrevocable Letter No. SLC-433 dated January 5, 2018, together with the Amendment to Irrevocable Standby Letter of Credit dated September 18, 2019 by TowneBank, Successor by Merger to Paragon Bank, are fully released and satisfied.

3. Within five (5) days of the date that Cadrillion makes the payment described in Paragraph 1 of this Consent Order or the date that TowneBank makes the payment described in Paragraph 2 of this Consent Order, whichever date is later, Plaintiffs shall file a Notice with the Court stating that Plaintiffs have received the payments provided for in this Consent Order. Upon the filing of such Notice, the 2019 Judgment, including any right that Plaintiffs might otherwise

possess to recover additional attorneys' fees, costs, and interest, shall be deemed fully satisfied, released, and discharged.

IT IS SO ORDERED.

Signed: February 11, 2021

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
United States District Judge

